

**OFFICE OF SURFACE MINING
RECLAMATION AND ENFORCEMENT**

**Annual Evaluation Summary Report
For the
Regulatory Program
Administered by the State
Of
Utah**



**For
Evaluation Year 2006
(July 1, 2005, through June 30, 2006)**

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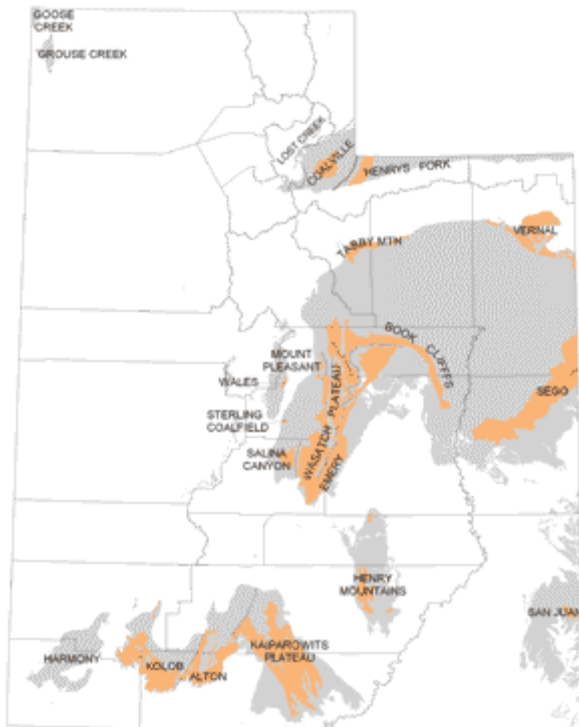
I. Introduction

The Surface Mining Control and Reclamation Act of 1977 (SMCRA) created the Office of Surface Mining Reclamation and Enforcement (OSM) in the Department of the Interior. SMCRA provides authority to OSM to oversee the administration of and provide Federal funding for State regulatory programs that have been approved by OSM as meeting the minimum standards of SMCRA. This report contains summary information regarding the Utah program and the effectiveness of the Utah program in meeting the purposes of SMCRA as specified in section 102. The approved SMCRA program for the State of Utah is administered by the Department of Natural Resources, Division of Oil, Gas and Mining (Division or DOGM). This annual report covers the period of July 1, 2005, through June 30, 2006. Detailed background information and comprehensive reports for the program elements evaluated during the period are available for review and copying at the OSM Denver Field Division office.

II. Overview of the Utah Coal Mining Industry

Coal is found beneath approximately 18 percent of the state of Utah, but only 4 percent is considered mineable at this time. The demonstrated coal reserve base ranges from 5.4 to 14 billion tons. The Federal government holds most of Utah's coal resources.

Utah coal fields are shown on the figure below (Utah Geological Survey web site, Coal & Coalbed Methane at [Http://geology.utah.gov](http://geology.utah.gov), August 2006). In 2006, the Wasatch Plateau, Book Cliffs, and Emery coal fields were being actively mined.



Most of the coal is bituminous and is of Cretaceous age. The Btu value is high compared to most other western States. Sulfur content ranges from medium to low in the more important coal fields.

Coal production steadily increased from the early 1970's and peaked in 1996 at 28.9 million tons. Production in 2005 was 24.4 million tons (Table 1). The majority of the coal production is produced by underground mining operations.

As of June 30, 2006, Utah had 27 permitted operations that had disturbed 2,250 acres (Table 6). Each of these operations is an inspectable unit. All of these operations were active or temporarily inactive; none were inactive

or abandoned (Table 2). Of the 27 operations, 11 were underground mines that use the longwall mining method, 10 were underground mines that use the room-and-pillar mining method, one was a surface mining operation that extracts coal in the area of previous underground mining, one was a surface mining operation that extracts coal from an underground mine refuse pile, and four were coal preparation plants/loadout facilities. Utah also has six bond forfeiture sites with 469 acres of disturbance that have been reclaimed by the State.

Utah's coal mining industry has a direct, significant impact on the local economies where mining occurs. Coal mining currently occurs in Carbon, Emery, and Sevier Counties. The Utah Department of Workforce Services reported that in 2005 mining companies, including coal mining companies, respectively, employed 791 and 826 persons in Carbon and Emery Counties. Employment figures for 2005 were not available for Sevier County. In Carbon County, coal mining companies represented five of the fifteen largest employers and one was the second largest employer. In Emery County, four out of the five largest employers were coal companies and coal mining companies represented five of the fifteen largest employers. In Sevier County, a coal mining company was the fourth largest employer. Preliminary coal mining employment rose significantly in 2005 for Carbon and Emery counties. See <http://jobs.utah.gov/wi/regions/county.asp> for more information on coal related employment in Utah.

The climate of the Wasatch Plateau and Book Cliffs coal fields is characterized by hot, dry summers, the late-summer so-called *monsoon* rains, and cold, relatively moist winters. Normal precipitation varies from six inches in the lower valleys to more than 40 inches on some high plateaus. The growing season ranges from five months in some valleys to only 2 ½ months in mountainous regions.

III. Overview of the Public Participation Opportunities in the Evaluation Process and Utah Program

Evaluation Process

OSM's Western Regional Office (WR) and the Division formed an Evaluation Team (the Team) to conduct annual evaluations of Utah's Coal Regulatory Program and make recommendations for improving the administration, implementation, and maintenance of the Program. The Team structure is comprised of four core members each from the WR and the Division. The Team cooperatively: solicits public participation; selects and conducts joint inspections and evaluation topics; and reports, discusses, and tracks offsite impacts. This evaluation method fosters a shared commitment to the implementation of SMCRA.

The Team solicits comments or suggestions from persons and groups who may have an interest in coal mining and, specifically, an interest in the oversight process. DOGM posted a notice on its web page requesting suggestions for oversight topics from the public, industry, and environmental groups. Two comments were received, one from the

Bureau of Land Management and the other from JBR Environmental Consultants, Inc. for this evaluation period. The Team has responded to these comments and will provide additional information as needed.

The Team has made a copy of the 2005 Annual Evaluation Summary Report available on both the OSM internet site at www.osmre.gov and the DOGM site at <http://ogm.utah.gov/>.

Utah Program

The Utah Board of Oil, Gas, and Mining (Board) is the policy making body for DOGM. The Board consists of seven members knowledgeable in oil, gas, mining, environmental, geology, and royalty matters. The Board convened eleven monthly meetings during this evaluation year. The meetings are normally held in Salt Lake City, except two of the meetings were held in Price and Vernal. By traveling to other areas of the State the public is given an opportunity to discuss oil, gas and mining issues or activities with the Board.

Quarterly throughout the evaluation year, DOGM representatives met with Emery County water user associations, which have a concern that mines may be diminishing surface water flows. Meeting attendees discussed cumulative hydrologic impact areas for the Emery County mines, DOGM's water monitoring database, water replacement rules, and general permitting activity updates. The water users have water monitoring data and water supply information that they provide to DOGM.

IV. Accomplishments, Issues, and Innovations

Accomplishments

DOGM performed outreach to the public, operators, agencies, and stakeholders by providing opportunities to discuss issues.

- Quarterly throughout the evaluation year, DOGM representatives meet with Emery County water user associations, Emery County Coal Operators, Water Rights, Forest Service, BLM, Emery County Commission and other interested parties to discuss water issues relating to coal mining in the Emery County area. The group discusses cumulative hydrologic impacts, DOGM's water monitoring database, water replacement rules and general issues related to coal mining. The water users provide updates on water availability and systems.

DOGM performed outreach to citizens and communities by participating in programs that help to educate the public about mining.

- The Board of Oil, Gas and Mining sponsors an Earth Day Awards Program to recognize operators or individuals for going beyond what is required by

regulation to protect the environment while providing society with essential natural resources. The Board recognized:

- Canyon Fuel Company, Skyline Mine for assisting the Utah Abandoned Mine Reclamation Program with research on the Maclean Mine Fire, Carbon County;
 - Canyon Fuel Company, SUFCO Mine voluntary wildlife habitat improvements for sage grouse;
 - Energy West Mining Company, Des-Bee-Dove Mine for outstanding final mine site reclamation;
 - Plateau Mining Corporation, Star Point Mine for outstanding final mine site reclamation; and
 - Nielson Construction Company, Lifetime Achievement. Nielson Construction was the contractor on two outstanding mine reclamation projects recognized with 2006 Earth Day awards.
- The Division's Associate Director of Mining is an adjunct professor teaching a mine permitting and reclamation class for Mining Engineering students at the University of Utah. Division employees assist in some segments of the class.
- The Division maintains information on their web site at <http://www.ogm.utah.gov/>. Information includes: Water Quality Database, announcements of pending rules, mine information, contact information, links, technical information, and an FTP site.

DOGM provides leadership and outreach in the coordination with other State and Federal agencies involved in coal.

- DOGM conducts monthly interagency conference calls to coordinate permitting issues. Agencies who participate in these calls include the BLM, State Trust Lands, OSM, U.S. Fish and Wildlife Service, and the U.S. Forest Service.
- DOGM participates in quarterly interagency coal manager meetings to cooperatively facilitate coal mining in an environmentally sound manner that ensures maximum benefit to the public.

DOGM is in the process of maintaining and developing a database and data processing for electronic permitting. Elements of the database include permit review tracking, automated inspection reports, document indexing, and annotation of digital photographs. Currently implemented activities include:

- Files and mining plans are being converted from paper to electronic PDF files;
- Electronic documents on DOGM's network are in an electronic filing system that makes documents electronically available to DOGM staff. Permitting information

including permits, bonds, acreages, mine and permit status, inspections and compliance information are tracked in the database;

- Staff permitting tasks are assigned, scheduled and tracked; and
- A relational database of people and companies that associates them with each other, permits, projects and other activities has been created and used for notifications, mailing lists, inspection reports, fees and other DOGM related work.

Issues

The following is a description of significant regulatory issues DOGM has addressed on mining operations during EY06. Some of the issues may be ongoing and DOGM continues to monitor them.

Water Impacts at the Skyline Mine

Beginning in March 1999, Skyline Mine encountered a series of water inflows estimated at 14,800 gpm that decreased to 9,300 gpm by March of 2003 and have now decreased to approximately 870 gpm (last measured in June of 2004).

Since the inflows have decreased substantially and the JC-1 well is discharging groundwater from below the mine to Electric Lake, the mine inflows now, and the flow to Eccles Creek have decreased. Because this flow is now below the 5,000 gpm limit agreed to in the MRP, the special monitoring of Mud Creek has ceased. Based on the special monitoring, the Division was able to find that there have been no detrimental impacts that would affect fish, macroinvertebrates, or wildlife.

As of December 1, 2004 the UPDES permit allows for a daily maximum of total dissolved solids discharged (TDS) of 1310 mg/l and a 30-day average of 500 mg/l. There is no tons per day (tpd) daily maximum, unless the 30-day average exceeds 500 mg/l; then a 7.1-tpd limit is imposed. The permit also allowed for Skyline to participate in and/or fund a salinity offset project in the case that both the 500 mg/L and 7.1 ton/day limits are exceeded. Skyline has entered into a funding process for salinity offsets.

The Division issued a new CHIA in February of 2006. It considered all of the studies concerning the water inflows and their purported connection to Electric Lake. The Division concluded that the studies do not prove a connection, and that no evidence of material damage from the mining process has been found.

The Division continues to monitor all aspects of the hydrologic balance at the Skyline Mine.

White Oak Mine

The White Oak Mine began surface contour mining after underground mining ceased in the fall of 2001. Shortly after surface mining began, DOGM was notified of financial problems with the mine's parent company, Lodestar Energy, Inc., and its bonding company, Frontier Insurance Company. Utah, OSM, and other parties secured funds from the owners, creditors, bankruptcy trustee, and bonding company to complete the site reclamation. The Division oversaw the reclamation, which was completed November 4, 2005, and has awarded a contract for noxious weed control for the next three years.

Horse Canyon Mine – Lila Canyon

An application for this permit extension was received in September of 1998. After six rounds of deficiencies, a permit was issued in May of 2001 and Mining Plan Approval was granted in November of 2001. The Southern Utah Wilderness Alliance (SUWA) filed an objection to the permit, and a subsequent hearing before the Board reversed the Division's decision, denying the permit in December of 2001. The application has since been refiled, an informal hearing held and numerous rounds of deficiency reviews completed. It was subsequently found that Native American consultation had not been completed during the Environmental Assessment process. The consultation process and additional cultural resource work continues at present.

Deer Creek Mine – North Rilda Facilities

The application to add facilities in Rilda Canyon for the Deer Creek Mine, submitted in November of 2003, was determined by OSM to require a mining plan modification along with an Environmental Assessment (EA). OSM was the lead on the EA and DOGM prepared the documentation. The U.S. Forest Service and Bureau of Land Management were cooperating agencies in the EA. The State permit was issued on July 27, 2005.

The initial consent letter required for mining plan approval from the U.S. Forest Service (dated July 6, 2005) was withdrawn, and the Forest Service issued its own Finding of No Significant Impact (FONSI) on August 30, 2005 for the EA requiring a 45-day appeal period. The Huntington Cleveland Irrigation Company and Utah Environmental Congress (UEC) appealed the FONSI. The Forest Service appeals review team upheld the FONSI and a consent letter was issued. The mining plan approval was signed on December 21, 2005.

During this process two emergency breakouts were approved, one on August 24, 2005 and the other on November 15, 2005 in order to allow mining to continue and keep conditions safe during this two year process.

SUFCO Mine – Water Replacement

After snow melt on the overlying plateau at the Sufco mine, an inspection by the operator found an interruption of water flow from the Pines 105 spring, the water source for 1500

head of cattle in the summer months. The Division found that this was the result of subsidence from longwall mining. Normally, this would require water replacement as required by regulation. However in this case, by oversight of the U.S. Forest Service, no water rights had been filed for this spring. The Division made a Finding of Material Damage on the water source on May 22, 2006, and required action to be taken by the mine operator. The operator, who was fully cooperative, developed a short term replacement plan and is in the process of developing a long-term mitigation plan to ensure future grazing on the Manti LaSal Forest Service lands. The damage from longwall mining and a subsequent plan for the return of the post mining land use is being closely followed by the Emery County Water Users.

DOGM Coal Regulatory Program Grant Funding

See DOGM's letter to OSM-DFD dated September 11, 2006, attached to this report as pages 17 and 18.

Innovations

DOGM has been a facilitator and participant in holding regular discussions among various agencies that deal with coal mining in the State of Utah. Approximately, 90 percent of the mining in Utah involves Federal coal and/or Federal lands. Mid-level management representatives (Coal Managers Group) of the agencies also meet as needed to iron out any issues that arise in the regular meetings. A subgroup of the Interagency Coal Group, termed the ICOP (Interagency Coal Operating Procedures) Group, has drafted a Working Agreement describing respective agency responsibilities and authorities for actions on Utah coal operations ranging from the pre-leasing stage through final reclamation. The Working Agreement has been close to being ready for signatures for several years. Although numerous meetings have been held, including upper-level management, recent permitting actions have shown that resolutions and the process are still being worked out. On September 7, 2005, DOGM requested assistance from OSM to help implement the Agreement while working with the U.S. Forest Service. Although it is still in draft form, the Working Agreement is a useful tool and is being used in the permitting process. The goal of the Agreement is to reduce the amount of duplication that is occurring with coal mine permitting among the agencies.

Another subcommittee of the Interagency Coal Group is the wildlife subcommittee. This group was initially organized to review wildlife exclusionary periods. The group has meetings with coal operators to discuss their needs regarding the short exploration drilling periods currently allowed by these wildlife exclusionary periods. Productive outcomes being are being developed and implemented by the group.

MSHA Meeting

After the recent underground coal mine fatalities were nationally televised, Utah's Governor asked the Division to coordinate with MSHA. The Division met with the staff from MSHA in Price to discuss the agency roles on May 23, 2006.

Water Rights MOU

An MOU was signed in November of 2005 with the Utah Division of Water Rights. The MOU defines roles for communication regarding coal mining water related issues.

V. Success in Achieving the Purposes of SMCRA As Determined By Measuring and Reporting End Results

To further the concept of reporting end results and measuring Utah's success in achieving the purposes of SMCRA, OSM and DOGM conducted evaluations and inspections whose purpose was to measure the number and extent of off-site impacts, the percentage of inspectable units free of off-site impacts, the number of acres that have been mined and reclaimed and meet the bond release requirements for the various phases of reclamation, and DOGM's effectiveness of customer service. Reports, which provide additional details on how the Team conducted the evaluations and inspections and took the measurements, are available in the OSM Denver Field Division office.

Off-site Impacts

An "off-site impact" is anything resulting from a surface coal mining and reclamation activity or operation that causes a negative effect on resources (people, land, water, structures) outside the area authorized by the permit for conducting mining and reclamation activities.

Table 4 shows the number and type of off-site impacts that were observed and documented as having occurred during EY 2006, both for permitted sites and bond forfeiture sites.

Sites Where DOGM Had Not Forfeited Reclamation Performance Bonds

The Team assessed whether off-site impacts had occurred on each of the 27 permitted operations that existed at some time during the evaluation period and for which DOGM had not forfeited reclamation performance bonds. The Team did so through the following 346 on-the-ground observations: 117 DOGM complete inspections including 4 OSM and DOGM joint, complete inspections; 224 DOGM partial inspections (Table 10); and 5 special focus/topic evaluation observations discussed in section VII below.

For EY 2006, the Team documented one minor, hydrology, off-site impact to a water resource resulting from active coal mining operations (Table 4). Ninety-six percent of Utah mines were free of off-site impacts. In comparison, the Team found 85, 96, 96, and 100 percent of the mines free of off-site impacts in EY's 2002, 2003, 2004, and 2005, respectively.

Sites Where DOGM Had Forfeited Reclamation Performance Bonds

Since 1981 when OSM approved the Utah permanent regulatory program, DOGM has forfeited reclamation performance bonds for six mines. (The White Oak Mines #1 and #2 are counted with the bond forfeiture sites because the Division issued the determination to forfeit; however, bond forfeiture monies were never received. Monies were obtained from the Loadstar Bankruptcy Trustee, Frontier Insurance, and a “General Settlement Fund” outside of the Loadstar bankruptcy estate.)

During EY 2006, DOGM conducted five complete inspections on the six mines (see Tables 6 and 10). It did not observe any off-site impacts. Table 4 (bottom half) shows that 100 percent of the bond forfeiture sites were free of off-site impacts. The Team has also found 100 percent of these mines to be free of off-site impacts in EY's, 2002, 2003, 2004, and 2005, respectively.

Reclamation Success

Sites Where DOGM Had Not Forfeited Reclamation Performance Bonds

For the operations where DOGM had not forfeited reclamation performance bonds, the Team used as the measure of reclamation success the disturbed acreage that had received bond release. Historically, the amount of bond release acreage in Utah is very low due to the following two factors:

- Most of the permitted operations are underground mines (Table 2). Underground mining operations are long-lived and remain active during the entire life of the operation because of their continued use as surface facilities. Although the surface disturbances for underground mines are relatively small (2,250 acres for EY 2006), there are 180,712 permitted acres including the area of land over the underground mine workings for 33 mines, or an average of 5,476 permitted acres per mine in Utah.
- The bond liability period is a minimum of 10 years.

Table 5 shows the permit acreage where DOGM partially released (phases I and II) or totally released (phase III) bonds during the evaluation year. For the 2,250 acres of total disturbance that had not yet received final (phase III) bond release at the beginning of the evaluation year, DOGM granted a phase I bond release of 11.27 acres at the Castle Gate and Willow Creek mines.

Customer Service

DOGM conducted a benchmarking of its electronic permitting database. The review covered procedural aspects of DOGM's program in maintaining the database to ensure that elements such as permit review tracking, automated inspection reports, document indexing, and annotation of digital photographs are included and current. The study also

concerned DOGM's effectiveness in serving its customers by creating a paperless process wherein permitting information is provided electronically on the Division's website. A report was produced which outlined the past, present, and future of this aspect of DOGM's customer service.

For a discussion of this evaluation, see following section VII.

VI. OSM Assistance

For the 1-year grant period starting July 1, 2005, DOGM requested \$2.14 million in assistance. OSM subsequently funded the Utah program in the amount of \$1.74 million (Table 9). Through a Federal lands cooperative agreement, OSM reimburses DOGM for permitting, inspection and other activities that it performs for coal mines on Federal lands (Table 8). Because most of the mines in Utah occur on Federal lands, OSM provided funding for 81 percent of DOGM's total program costs (Table 9).

On September 7, 2005, the Division requested assistance from OSM to help coordinate the resolution of conflicts and difficulties between the Division and the U.S. Forest Service (FS) pursuant to the Utah Cooperative Agreement (30 CFR 944.30). OSM responded by arranging for an initial meeting with the FS and DOGM in January of 2006 that included OSM's Regional Director and the Regional Forester. A number of follow-up meetings were held through March of 2006. OSM's objective was to address the overlapping responsibilities of OSM, DOGM and the FS associated with permitting coal mining on surface lands administered by the FS. OSM discussed the possibility of unifying compliance with the National Environmental Policy Act (NEPA) by asking the FS not to duplicate OSM's FONSI associated with NEPA as it related to the mining plan decision. OSM also hoped that the FS would not publish notice under its 36 CFR 215 regulations. However, during these meetings the FS consistently maintained that the requirement to consent to Interior's decision on the mining plan requires the FS to conduct a NEPA analysis and issue a decision, usually a FONSI. The FS then publishes notice of its pending consent, asks for comments, and provides appeal rights under its regulations at 36 CFR 215.

DOGM's permitting process and Interior's mining plan approval process, in addition to the FS process as currently practiced, results in an overlapping combination of responsibilities that can only confuse the public and coal operators. Most confusing are the multiple opportunities for appeal that exist and the possibility of the wrong party being appealed. Both OSM and DOGM's objective has been for the agencies to more timely issue decisions on surface coal mining proposals. It is the time provided by the FS for appeals and for deciding appeals under 36 CFR 215 that adds up to 90 days for approving mining proposals. While provisions in the 215 regulations seem to allow the FS to exempt its decision to consent to the mining plan from the appeal process, the FS declined to do so.

In the end the parties agreed to streamline the process by adjusting their schedules so that the respective agency actions are more timely, and each agency gained a thorough understanding of the other's responsibilities. To avoid duplication, the FS also accepted DOGM's procedure for compliance with the Endangered Species and National Historic Preservation Acts. Lastly, the agencies agreed to collaborate on a singular NEPA analysis.

Through its National Technical Training Program (NTTP) and Technical Innovation and Professional Services Program (TIPS), OSM offers free-of-charge technical training courses to State and Tribal employees. During EY 2006, 16 DOGM employees (students) participated in 40 NTTP training opportunities, and two employees participated in two TIPS training opportunities. DOGM, in kind, provided six instructors for courses and assisted in updating the soils and revegetation class, as well as developing the new Coal Fields Communications class. DOGM also hosted the Alternative Enforcement training course which included a visit to the White Oak Mine.

To support Utah's mobile computing and electronic permitting initiative, OSM's Office of Technology Transfer (OTT) provided Utah with upgrades for Adobe Acrobat Professional.

OSM's Technical Librarian filled 6 reference requests, and provided 33 journal articles to Utah Staff. In addition, Utah received over 41 technical publications, CD's and informational references. In addition, OTT provided notification that a copy of public domain software, HC-GRAM (Hydro-Chemical Graphic Representation Analysis Methods) version 3.1.1 (running in windows environment with a help tutorial) was placed on its on its web site www.ott.wrcc.osmre.gov, under the heading of Guidelines, Handbooks, Manuals, and Public Domain Software.

DOGM continues to be one of the major contributors to the advances in Western electronic permitting, GIS, and hydrology database application. Utah Staff made significant contributions to the new technologies workshops conducted by OTT this year. One employee attended the Sheridan, Wyoming WRTT New Technologies workshop. They also represented Utah at the Bismarck, North Dakota New Technologies Workshop and field trip to the Falkirk Mine. OTT sponsored this employee's attendance at the workshop titled, "ESRI ArcPAD / Mobile Computing" at the Utah Geographic Information Council meetings in Moab, Utah on June 7, 2006. Another employee served as a reviewer of the Mine Blasting Modules OTT sponsored.

VII. Evaluation Topic Reviews

Each year OSM and DOGM evaluate topics to determine whether DOGM is effective in preventing offsite impacts, ensuring reclamation success, and ensuring effective customer service. Results of all evaluation topic reviews are available at the Denver Field Division.

Customer Service – Electronic Permitting

This year's customer service topic was a Benchmarking of Electronic Permitting at the Division, "Electronic Permitting - Historical Perspective, Current Status and Future Plans." Electronic permitting is the ability to utilize the electronic work environment to capture or create documents or text, maps and data in an electronic format in order to:

- Easily transfer information to any location or computer system;
- Provide easy access (including public access) to information;
- Allow modification of information to suit the user's needs;
- Allow review and processing of data; and
- Facilitate efficient archiving into appropriate databases and storage systems for future use.

As identified in the earlier part of this report, the Division maintains an electronic database. Elements of the database include permit review tracking, automated inspection reports, document indexing, and annotation of digital photographs. Currently implemented activities include:

- Files and mining plans are being converted from paper to electronic PDF files. This includes the "normalization" of the paper files in the existing public information room and preparing all of the historic files for scanning and archiving;
- Electronic documents on DOGM's network are in an electronic filing system that makes documents electronically available to DOGM staff. Permitting information including permits, bonds, acreages, mine and permit status, inspections and compliance information are tracked in the database;
- Staff permitting tasks are assigned, scheduled and tracked through what is known as the Coal Tracking System; and
- A relational database of people and companies that associates them with each other, permits, projects and other activities has been created and is used for notifications, mailing lists, inspection reports, fees and other DOGM related work.

There will always be "paper work" involved in the Coal Regulatory Program, but the goal is to minimize the amount of paper, do as much as possible electronically, and make it available on the Division's website. The database is the link to the many facets of coal permitting and the Division is well on its way to an almost paperless process.

Reclamation Success – Post Mining Land Use Changes

This evaluation was based on OSM Directive REG-8 for determining whether the Utah-DOGM is effective in ensuring reclamation success. Section 515(b)(2)2 of SMCRA and the Utah Code Annotated 40-10-17 (2)(b) allow for a change of post mining land use (PMLU) from the pre-mining land use where there is a

reasonable likelihood of achieving the alternative land use (R645-301-413.310). Several mines in Utah have altered the PMLU from the pre-mining land use. These mines were surveyed to determine: how many mines have successfully implemented the alternative PMLU, and the time frame for implementation. In addition, the categories of approved alternative PMLU's were evaluated to note any trend towards a particular PMLU.

There were eight approved alternative PMLU's. These alternative uses were divided by category as follows: six industrial/commercial and two residential/recreational, indicating a trend towards industrial/commercial. Of the eight approved alternative uses, only four had been successfully implemented. There was no activity at three sites either due to recent approval or pending Phase III bond release. One industrial/commercial PMLU was not achieved, and most likely will never be achieved.

As a result of this study, the following conclusions were reached:

- Industrial development should build upon existing disturbance where possible;
- The retention of sediment ponds at Industrial/Commercial sites should be evaluated closely prior to approval;
- The demonstration of likelihood of achievement cannot be based solely upon a willing buyer; and
- A likelihood of achievement is best based upon imminent development activity, but at a minimum, the likelihood of achievement is demonstrated by a description of the business plan.

The Team recommends that, prior to approval of Phase III bond release for industrial/commercial alternative PMLU sites, the Division requires removal of all mine related equipment and documents.

Offsite Impacts – Potential Impacts on Archaeological and Historic Sites from Mining Activity

This evaluation was based on OSM Directive REG-8 for determining whether the Utah DOGM is effective in minimizing off-site impacts. For any publicly owned parks or places listed on or eligible for listing on the National Register of Historic Places that may be adversely affected by the proposed coal mining and reclamation operations, the mining and reclamation plan must describe the measures to be used to prevent adverse impacts (R645-300-133.600 and Utah Code Annotated 411.142.1). Archeological and historic surveys provide documentation of sites that may be impacted by coal mining and reclamation activities. The Team reviewed three different Mining and Reclamation Plans to find historic and/or archeological sites that could potentially be impacted from coal mining and reclamation operations. On the ground assessments were made by the Team, including OSM's archeologist, to determine if adverse impacts have

been prevented or appropriate mitigation taken. Five sites, including four archeologic and one historic mining district, that could potentially have been impacted were visited and evaluated by the Team. The Team concluded that mining activities have not impacted archeological or historical sites. The Team recommends that all sites be evaluated or re-surveyed following changes in operations and prior to reclamation.



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September 11, 2006

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Subject: Appended Comments to Annual Evaluation Summary Report July 1, 2005 through June 30, 2006

Dear Mr. Fulton:

Please append this letter to Utah's Annual Evaluation Summary Report for evaluation year 2006. The format required for the tables in the report by the OSM Reg-8 Directive do not provide an accurate accounting of the work Utah does. Utah seldom permits new "disturbed" acreage because underground mine surface facilities are relatively static while the underground mined acreage does increase each year. Due to the way information is defined and reported in Tables 2 and 3 it would appear to the report reader that Utah's Coal Program is hardly doing anything because the permitted/disturbed acreage barely changes from year to year. In fact, the Coal Regulatory Program provides a great deal of analysis regarding the surface impacts from underground mining in permitting these additional coal lease acreages.

The reporting format may also lead the reader to believe that the Office of Surface Mining (OSM) is fulfilling its statutory obligation to fund the Utah Program under SMCRA. Table 9 should show that OSM has not met this obligation.

In order to accurately report the funding and activity for the Utah Coal Program we request the following information be appended to the Annual Evaluation Summary Report.

- Modify Table 2 to reflect the following:

Inspectable Units	
Coal mines and related facilities	Permitted acreage
State and Private Lands	59,666
Federal Lands	121,046
Total All Lands	180,713

Page 2
James Fulton
September 11, 2006

- Table 3 should be modified to show:

State Permitting Activity	
Type application	Acres issued
Renewals	59,195
Revisions and IBC	13,134

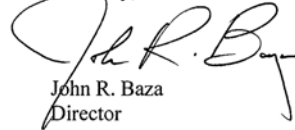
IBC = Incidental Boundary Change

- Modify Table 9 to:

Administration and Enforcement Funds Granted to Utah by OSM		
Funds Requested	Federal Funds Awarded	Shortfall in Federal Funding
\$2,143,426	\$1,743,698	\$399,728

Should you have questions, please contact Susan White, Evaluation Team Co-lead at (801) 538-5258, or Mary Ann Wright, Associate Director, Mining at (801) 538-5306.

Sincerely,



John R. Baza
Director

an
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Appendix

Tabular summary of core data characterizing the Utah
program

TABLE 1

COAL PRODUCTION (Millions of short tons)			
Period	Surface mines	Underground mines	Total
Coal production ^A for entire State:			
Annual Period			
2003	0.094	23.410	23.504
2004	0.021	22.685	22.706
2005	0.004	24.376	24.380
Total	0.119	70.471	70.590

A Coal production as reported in this table is the gross tonnage which includes coal that is sold, used or transferred as reported to OSM by each mining company on form OSM-1 line 8(a). Gross tonnage does not provide for a moisture reduction. OSM verifies tonnage reported through routine auditing of mining companies. This production may vary from that reported by States or other sources due to varying methods of determining and reporting coal production.

For reference, there were also NO VALUE tons reported:
2003 - .544 tons
2004 - .520 tons
2005 - .567 tons

TABLE 2

INSPECTABLE UNITS												
As of June 30, 2006												
Coal mines and related facilities	Number and status of permits								Insp. Units ^D	Permitted acreage ^A (hundreds of acres)		
	Active or temporarily inactive		Inactive		Abandoned		Totals					
			Phase II bond release									
	IP	PP	IP	PP	IP	PP	IP	PP		IP	PP	Total
STATE AND PRIVATE LANDS REGULATORY AUTHORITY: STATE												
Surface mines	1						0	1		2.02	2.02	
Underground mines	1				4		0	5		0.31	0.31	
Other facilities	2						0	2		5.14	5.14	
Subtotals	0	4	0	0	0	4	0	8	0	0	7.47	7.47
FEDERAL LANDS REGULATORY AUTHORITY: STATE												
Surface mines	1				1		0	2		2.4	2.4	
Underground mines	19		1		1		0	21		16.1	16.1	
Other facilities	2						0	2		0.85	0.85	
Subtotals	0	22	0	1	0	2	0	25	0	0	19.35	19.35
ALL LANDS ^B												
Surface mines	2				1		0	3		4.42	4.42	
Underground mines	20		1		5		0	26		16.41	16.41	
Other facilities	4						0	4		5.99	5.99	
Totals	0	26	0	1	0	6	0	33	0	0	26.82	26.82
Average number of permits per inspectable unit (excluding exploration sites)								<u>1</u>				
Average number of acres per inspectable unit (excluding exploration sites)								<u>85</u>				
Number of exploration permits on State and private lands: <u>0</u>								On Federal lands ^C : <u>4</u>				
Number of exploration notices on State and private lands: <u>5</u>								On Federal lands ^C : <u>0</u>				
IP: Initial regulatory program sites PP: Permanent regulatory program sites												
^A When a unit is located on more than one type of land, include only the acreage located on the indicated type of land. ^B Numbers of units may not equal the sum of the three preceding categories because a single inspectable unit may include lands in more than one of the preceding categories. ^C Includes only exploration activities regulated by the State pursuant to a cooperative agreement with OSM or by OSM pursuant to a Federal lands program. Excludes exploration regulated by the Bureau of Land Management. ^D Inspectable Units includes multiple permits that have been grouped together as one unit for inspection frequency purposes by some State programs.												

TABLE 3

STATE PERMITTING ACTIVITY												
As of June 30, 2006												
Type of Application	Surface mines			Underground mines			Other facilities			Totals		
	App. Rec.	Issued	Acres	App. Rec.	Issued	Acres^A	App. Rec.	Issued	Acres	App. Rec.	Issued	Acres
New Permits	1	0	548	0	0	0	0	0	0	1	0	548
Renewals	0	0	0	6	5	523	0	0	0	6	5	523
Transfers, sales and assignments of permit rights	0	0		0	0		0	0		0	0	
Small operator assistance	0	0		0	0		0	0		0	0	
Exploration permits				4	4		0	0		4	4	
Exploration notices ^B		1			4			0			5	
Revisions (exclusive of incidental boundary revisions)		0			8			0			0	
Incidental boundary revisions		0			1	0		0	0		1	0
Totals	1	1	548	10	22	523	0	0	0	11	15	1,071
OPTIONAL - Number of midterm permit reviews completed that are not reported as revisions. <div style="text-align: right;">4</div>												
^A Includes only the number of acres of proposed surface disturbance. (13,1342 acres of permit area added for revisions and IBC.												
^B State approval not required. Involves removal of less than 250 tons of coal and does not affect lands designated unsuitable for mining.												

TABLE 4

OFF-SITE IMPACTS														
RESOURCES AFFECTED			People			Land			Water			Structures		
DEGREE OF IMPACT			minor	moderate	major	minor	moderate	major	minor	moderate	major	minor	moderate	major
TYPE OF IMPACT AND TOTAL NUMBER OF EACH TYPE	Blasting													
	Land Stability													
	Hydrology								1					
	Encroachment													
	Other													
	Total	0	0	0	0	0	0	0	1	0	0	0	0	0
Total number of inspectable units: 27														
Inspectable units free of off-site impacts: 26														
OFF-SITE IMPACTS ON BOND FORFEITURE SITES														
RESOURCES AFFECTED			People			Land			Water			Structures		
DEGREE OF IMPACT			minor	moderate	major	minor	moderate	major	minor	moderate	major	minor	moderate	major
TYPE OF IMPACT AND TOTAL NUMBER OF EACH TYPE	Blasting													
	Land Stability													
	Hydrology													
	Encroachment													
	Other													
	Total	0	0	0	0	0	0	0	0	0	0	0	0	0
Total number of inspectable units: 6														
Inspectable units free of off-site impacts: 6														

Refer to the report narrative for complete explanation and evaluation of the information provided by this table.

TABLE 5

ANNUAL STATE MINING AND RECLAMATION RESULTS		
Bond release phase	Applicable performance standard	Acreage released during this evaluation period
Phase I	<ul style="list-style-type: none"> - Approximate original contour restored - Topsoil or approved alternative replaced 	11.27 acres
Phase II	<ul style="list-style-type: none"> - Surface stability - Establishment of vegetation 	
Phase III	<ul style="list-style-type: none"> - Post-mining land use/productivity restored - Successful permanent vegetation - Groundwater recharge, quality and quantity restored - Surface water quality and quantity restored 	
	Bonded Acreage Status^A	Acres
Total number of acres bonded at end of last review period (June 30, 2005) ^B		2,247.12
Total number of acres bonded during this evaluation year		2,250.36
Number of acres bonded during this evaluation year that are considered remining, if available		0.00
Number of acres where bond was forfeited during this evaluation year (also report this acreage on Table 7)		0.00

^A Bonded acreage is considered to approximate and represent the number of acres disturbed by surface coal mining and reclamation operations.

^B Bonded acres in this category are those that have not received a Phase III or other final bond release (State maintains jurisdiction).

TABLE 6

RECLAMATION STATUS OF ALL AREAS DISTURBED UNDER THE UTAH PERMANENT REGULATORY PROGRAM																		
Acres Disturbed As of June 30, 2006																		
Permittee, mine name, and permit number	Mine type		Disturbed area		Long-term mining or reclamation facilities ^a	Active mining areas (pits and areas in advance of the pits stripped of topsoil) and	Areas backfilled and graded		Areas where Utah has released phase I bond		Areas soiled and seeded / planted		Areas where Utah has released phase II bond		Areas final seeded / planted for 10 years		Areas where Utah has released phase III bond	
	Surface	Underground	EY2006	Total (all years)			EY 2006	Total (all years)	EY 2006	Total (all years)	EY 2006	Total (all years)	EY 2006	Total (all years)	EY 2006	Total (all years)	EY 2006	Total (all years)
Active, temporarily inactive, inactive, and abandoned sites.																		
Castle Gate Holding Company Castle Gate Mine C/007/004		X		62.42		6.1		62.42	5.52	62.42		62.42		56.9				
Canyon Fuel Company, LLC Skyline Mine C/007/005		X		79.12	79.12													
Plateau Mining Corporation Star Point Mine C/007/006		X		113.34	113.34		113.34	113.34		113.34								5.64
Hiawatha Coal Company Hiawatha Mine C/007/011		X		290	290													
Nevada Electric Investment Company Wellington Preparation Plant C/007/012	(preparation plant)			392	392													
Utah American Energy, Inc. Horse Canyon Mine C/007/013		X		122.49	25.35			61.65		61.65		61.65		61.65				
Mountain Coal Company Gordon Creek #2, #7, and #8 C/007/016		X		34.15	34.15			33.25		32.52								0.73
Canyon Fuel Company, LLC Soldier Canyon Mine C/007/018		X		24.32	24.32													
Andalex Resources, Inc. Centennial Mine C/007/019		X		35.27	35.27													
Hidden Splendor Resources, Inc. Horizon Mine C/007/020		X		9.5	9.5													
Savage Industries, Inc. Savage Coal Terminal C/007/022	(preparation plant and loadout)			122.28	122.28													
Andalex Resources, Inc. Wildcat Loadout C/007/033	(preparation plant and loadout)			63.7	63.7													
Canyon Fuel Company, LLC Banning Loadout C/007/034	(preparation plant and loadout)			21.6	21.6													
Sunnyside Cogeneration Associates (SCA) SCA C/007/035	X			202	196.5			5.5		5.5								
Plateau Mining Corporation Willow Creek Mine C/007/038		X		154.04	154.04		154.04	154.04	5.75	5.75								7.51
Canyon Fuel Company, LLC Dugout Mine C/007/039		X		51.1	51.1													
West Ridge Resources, Inc. West Ridge Mine C/007/041		X		29.06	29.06													
Sunnyside Cogeneration Star Point Refuse Mine C/007/042	X			88.78	88.78													
Consolidation Coal Company Hidden Valley Mine C/015/0007		X		6.7	6.7			6.7		6.7		6.7						
PacificCorp Trail Mountain Mine C/015/009		X		10.69	10.69													
Consolidation Coal Company Emery Deep Mine C/015/015		X		62.5 ^b	62.5 ^b													
PacificCorp Des-Bee-Dove Mine C/015/017		X		36.22 ^c	36.22			23.88										
PacificCorp Deer Creek Mine C/015/018		X		97.74	97.74													
PacificCorp Cottonwood/Wilberg Mine C/015/019		X		62.82	62.82			6.12		6.12		6.12						0.01 ^d
Co-Op Mining Company Bear Canyon Mine C/015/025		X		40.46	40.46													
Genwal Resources, Inc. Crandall Canyon C/015/032		X		10.7	10.7													
Canyon Fuel Company,																		

LLC																		
SUFCO Mine				27.36 ^f														
C/041/002		X			27.36													
Subtotal	6	21	0	2250.36	2085.3	6.1	267.38	466.9	11.27	294		136.89		61.65				0.01
Sites receiving full release of reclamation performance bonds.																		
Blackhawk Coal Company																		
Willow Creek Mine																		4.2 ^h
C/007/002		X		4.2						^h				^h				
Co-Op Mining Company																		
Trail Canyon Mine																		
C/015/021		X		10				10		10		10		10		10		10
Mountain Coal Company																		
Gordon Creek #3 and #6																		
C/007/017		X		17.3				17.3		17.3		17.3		17.3		17.3		17.3
Mountain Coal Company																		
Huntington #4 Mine																		
C/015/004		X		12.5				12.5		12.5		12.5		12.5		12.5		12.5
Western States Minerals Corporation																		
J.B. King Mine																		
C/015/002		X		28				28		28		28		^h		28		28
Subtotal		5		72				67.8		67.8		67.8		39.8		67.8	0	72
Bond forfeiture sites. ^g																		
Sunnyside Coal Company												287.4 ⁱ						
C/007/007		X		287.4				287.4										
North American Equities																		
Blazon Mine												4.65 ^j						
C/007/021		X		4.65				4.65										
Summit Minerals																		
Summit #1												19 ^k						
C/043/001		X		19				19										
Summit Coal Company																		
Boyer Mine												7 ^l						
FOR/043/008		X		7				7										
New Tech Mining Corp.																		
Black Jack #1 Mine												^j						
C/019/004		X		3				3				^g						
Lodestar Energy, Inc.																		
White Oak #1 and #2 Mines and Loadout																		
C/007/001		X		151.1	151.1													
Subtotal		6		469.15				469.15				321.07						
Total	6	32	0	2791.51	2085.3	6.1	267.38	1003.85	11.27	361.8	0	525.76	0	101.45	0	67.8	0	72.01

^aBlanks in the table denote zeros.

^hLong-term mining or reclamation facilities include haul and access roads; temporary dams and impoundments; diversion and collector ditches; water and air monitoring sites; topsoil stockpiles; overburden stockpiles; repair, storage, and construction areas; coal stockpile, loading, and processing areas; railroads; coal conveyors; refuse piles and coal mine waste impoundments; head-of-hollow fills; valley fills; ventilation shafts and entryways; and noncoal waste disposal areas (garbage dumps and coal combustion by-products disposal areas).

^cDoes not include 35.49 acres proposed for disturbance as a part of the Lila Canyon facilities. DOGM originally approved the application for the disturbance on July 27, 2001. However, the Utah Board of Oil, Gas and Mining remanded the approval on December 14, 2001. DOGM reevaluated the application and on July 19, 2002, notified the permit applicant of deficiencies.

^dNot included in this disturbed acreage total are 93.18 disturbed acres in an access road that was removed from the permit area through the bond release process.

^eChannel Canyon portal breakout reclamation; no phase I and II bond release prior to phase III bond release.

^fAdditional 18.67 acres approved for disturbance. However, not yet disturbed.

^gNew-Tech Mine Corporation, New-Tech Mine, which disturbed 3 acres. DOGM permitted the site for exploration but never permitted it for active mining under the Utah permanent regulatory program.

^hNo phase I and II bond release prior to phase III bond release.

ⁱUtah forfeited the bond on November 22, 1996. A Utah-hired contractor completed reclamation in July 1999.

^jUtah forfeited the bond on May 24, 1991. A Utah-hired contractor completed reclamation on October 4, 2000.

^kUtah forfeited the bond on January 26, 1989. A Utah-hired contractor completed reclamation on November 20, 1997.

^lUtah forfeited the bond on June 23, 1989. A Utah-hired contractor completed reclamation on April 17, 1997.

TABLE 7

STATE BOND FORFEITURE ACTIVITY (Permanent Program Permits)		
Bond Forfeiture Reclamation Activity by SRA	Number of Sites	Acres
Sites with bonds forfeited and collected that were unreclaimed as of June 30, 2005 (end of previous evaluation year) ^A	1	151.10
Sites with bonds forfeited and collected during Evaluation Year 2006 (current year)		0.00
Sites with bonds forfeited and collected that were re-permitted during Evaluation Year 2006 (current year)	0	
Sites with bonds forfeited and collected that were reclaimed during Evaluation Year 2006 (current year)	0	
Sites with bonds forfeited and collected that were unreclaimed as of June 30, 2006 (end of current year) ^A	0	
Sites with bonds forfeited but uncollected as of June 30, 2006 (end of current year)	0	
Surety/Other Reclamation (In Lieu of Forfeiture)		
Sites being reclaimed by surety/other party as of June 30, 2005 (end of previous evaluation year) ^B		
Sites where surety/other party agreed to do reclamation during Evaluation Year 2006 (current year)		
Sites being reclaimed by surety/other party that were re-permitted during Evaluation Year 2006 (current year)		
Sites with reclamation completed by surety/other party during Evaluation Year 2006 (current year) ^C		
Sites being reclaimed by surety/other party as of June 30, 2006 (current evaluation year) ^B		
^A Includes data only for those forfeiture sites not fully reclaimed as of this date ^B Includes all sites where surety or other party has agreed to complete reclamation and site is not fully reclaimed as of this date ^C This number also is reported in Table 5 as Phase III bond release has been granted on these sites		

TABLE 8

STATE STAFFING (Full-time equivalents at the end of evaluation year)	
Function	EY 2006
Regulatory Program	
Permit review	10.00
Inspection	3.00
Other (administrative, fiscal, personnel, etc.)	6.50
Regulatory Program Total	19.50
AML Program Total	10.00
TOTAL	29.50

TABLE 9

FUNDS GRANTED TO UTAH BY OSM (Millions of dollars) EY 2006		
Type of Grant	Federal Funds Awarded***	Federal Funding as a Percentage of Total Program Costs
Administration and Enforcement	\$1,743,698.00	81
Small Operator Assistance	\$0.00	0
Totals	\$1,743,698.00	

TABLE 10

<p align="center">STATE INSPECTION ACTIVITY</p> <p align="center">PERIOD: JULY 1, 2005 - JUNE 30, 2006</p>		
<p align="center">Inspectable Unit Status</p>	<p align="center">Number of Inspections Conducted</p>	
	Complete	Partial
Active*	112	224
Inactive*		
Abandoned*	5	
Total	117	224
Exploration	3	

* Use terms as defined by the approved State program.

State should provide inspection data to OSM annually, at a minimum, and maintain inspection data on a continual basis. OSM offices responsible for Federal and Indian Programs need not complete this table since data will be queried from the I & E Tracking System.

TABLE 11

STATE ENFORCEMENT ACTIVITY		
PERIOD: JULY 1, 2005 - JUNE 30, 2006		
Type of Enforcement Action	Number of Actions*	Number of Violations*
Notice of Violation	12	13
Failure-to-Abate Cessation Order	0	0
Imminent Harm Cessation Order	0	0

* Do not include those violations that were vacated.

State should provide enforcement data to OSM annually, at a minimum, and maintain data on a continuous basis. OSM offices responsible for Federal and Indian Programs need not complete this table since data will be queried from the I & E Tracking System.

TABLE 12

<p>LANDS UNSUITABLE ACTIVITY</p> <p>PERIOD: JULY 1, 2005 - JUNE 30, 2006</p>			
Number of Petitions Received	0		
Number of Petitions Accepted	0		
Number of Petitions Rejected	0		
Number of Decisions Declaring Lands Unsuitable	0	Acreage Declared as Being Unsuitable	0
Number of Decisions Denying Lands Unsuitable	0	Acreage Denied as Being Unsuitable	0

State should provide lands unsuitable data to OSM annually if there is any activity in this program area
OSM OFFICES RESPONSIBLE FOR FEDERAL AND INDIAN PROGRAM STATES MUST
ALSO COMPLETE THIS TABLE.